



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2018–N100; FXES11140100000–189–FF01E00000]

**Proposed Crestmont Farm Safe Harbor Agreement for the Taylor’s Checkerspot
Butterfly in Benton County, Oregon**

AGENCY: Fish and Wildlife Service, Interior,

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an enhancement of survival permit application from Crestmont Farm pursuant to the Endangered Species Act of 1973. The permit application includes a draft safe harbor agreement (SHA) developed for the conservation of the Taylor’s checkerspot butterfly. The permit would authorize the incidental take of the endangered Taylor’s checkerspot butterfly associated with habitat management actions intended to benefit the butterfly. We have prepared a draft environment action statement (EAS) for our preliminary determination that the SHA and permit decision may be eligible for categorical exclusion under the National Environmental Policy Act. We are making the permit application package, including the proposed SHA and draft EAS, available for public review and comment.

DATES: To ensure consideration, written comments must be received from interested parties no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the “Crestmont Farm SHA.”

- *Internet:* Documents may be viewed on the Internet at <http://www.fws.gov/oregonfwo/>.
- *Email:* CrestmontSHAcomments@fws.gov.
- *U.S. Mail:* State Supervisor, U.S. Fish and Wildlife Service; 2600 SE 98th Avenue, Suite 100; Portland, OR 97266.
- *Fax:* 503–231–6195, Attn: Crestmont Farm SHA.
- *In-Person Drop-off, Viewing, or Pickup:* Comments and materials received will be available for public inspection, by appointment (necessary for viewing or picking up documents only), during normal business hours at the U.S. Fish and Wildlife Service (at the above address); call 503–231–6179 to make an appointment. Written comments can be dropped off during regular business hours at the above address on or before the closing date of the public comment period (see **DATES**).

FOR FURTHER INFORMATION CONTACT: Richard Szlemp, U.S. Fish and Wildlife Service (see **ADDRESSES**); telephone: 503–231–6179; facsimile: 503–231–6195. If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We have received an enhancement of survival permit application from Crestmont Farm pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permit would authorize the incidental take of the Taylor’s checkerspot butterfly (*Euphydryas editha taylori*) in exchange for habitat conservation actions that are expected to provide a net conservation benefit for the species. The permit application

includes a proposed safe harbor agreement (SHA) that describes the existing baseline conditions, and the activities that are intended to produce a net conservation benefit for Taylor's checkerspot butterfly.

Background

Section 9 of the ESA prohibits the take of fish and wildlife species listed as endangered or threatened under section 4 of the ESA. Under the ESA, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term "harm," as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term "harass" is defined in our regulations as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3). Under specified circumstances, however, we may issue permits that authorize take of federally listed species, provided the take is incidental to, but not the purpose of, an otherwise lawful activity. Regulations governing permits for endangered species are at 50 CFR 17.22.

Under a SHA, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the ESA. SHAs, and the subsequent enhancement of survival permits that are issued pursuant to section 10(a)(1)(A) of the ESA, encourage private and other non-

federal property owners to implement conservation efforts for listed species by providing assurances that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through SHAs are found in 50 CFR 17.22(c). As provided for in the Service's final Safe Harbor Policy (64 FR 32717; June 17, 1999), SHAs provide assurances that allow the property owner to alter or modify their enrolled property, even if such alteration or modification results in the incidental take of listed species to such an extent that it returned the species back to the originally agreed upon baseline conditions.

We listed the Taylor's checkerspot as an endangered species on October 3, 2013 (78 FR 61452), with critical habitat. Historically, the Taylor's checkerspot butterfly was likely distributed throughout grassland habitat found on prairies, grassland bluffs, and grassland openings within a forested matrix. Habitat has been lost through conversion and degradation of habitat, particularly from agricultural and urban development, successional changes where grassland habitat reverted more towards forest characteristics, and the spread of invasive plants. In Oregon, the Taylor's checkerspot butterfly is presently only known to occur at two sites. Both sites are located in Benton County on grassland hills within a forested matrix in the Willamette Valley.

Proposed Action

Crestmont Farm and the Service jointly developed the proposed SHA for the conservation of the Taylor's checkerspot butterfly. The physical area addressed by this

SHA encompasses approximately 27 acres that lie within a suspended, high-voltage powerline corridor. The area covers the majority of the known population of Taylor's checkerspot butterfly at this site. Current vegetative conditions are typical of powerline corridor areas and include a mixture of grassland, shrubs, and young trees, with a fairly linear border of managed conifer forest. Management actions taken under the SHA are intended to maintain existing habitat conditions as well as increase the distribution and abundance of Taylor's checkerspot butterfly through enhancement of adjacent or nearby, unoccupied grassland habitat. Providing additional habitat areas can also increase the likelihood of persistence of the Taylor's checkerspot butterfly by offering microhabitat variations that may provide a range of habitat conditions that is not equally adversely affected by weather, plant community changes, predator populations, etc. The Service will coordinate a variety of management activities with Crestmont Farm pursuant to this SHA. These management activities generally include: (1) controlling/reducing non-native grasses; (2) controlling/reducing woody vegetation encroachment; (3) increasing the density and diversity of larval host plants, native nectar species, and other native species; and (4) maintaining suitable habitat conditions. In addition, the SHA provides for research and monitoring to occur.

The draft EAS now available for public review (see **ADDRESSES**) indicates that the proposed SHA and permit decision may be eligible for a categorical exclusion under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We are making the permit application package, including the SHA, and draft EAS, available for public review and comment.

Public Comments

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We request data, comments, new information, or suggestions from the public, other concerned governmental agencies, the scientific community, Tribes, industry, or any other interested party on our proposed Federal action, including adequacy of the SHA pursuant to the requirements for permits at 50 CFR parts 13 and 17 and adequacy of the EAS pursuant to NEPA.

Public Availability of Comments

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety. Comments and materials we receive, as well as supporting documentation, will be available for public inspection by appointment, during normal business hours, at our Oregon Fish and Wildlife Office (see **ADDRESSES**).

Authority

We provide this notice in accordance with the requirements of section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*), and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.22, and 40 CFR 1506.6, respectively).

Rollie White,

Acting Deputy Regional Director,

Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2018-27890 Filed: 12/21/2018 8:45 am; Publication Date: 12/26/2018]